

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

ANDREW ARVANITIS and
EDWARD JACOBS,

Plaintiffs,

v.

MASSACHUSETTS DEPARTMENT OF
CORRECTION, MASSACHUSETTS
HUMAN RESOURCES DIVISION,
MASSACHUSETTS CIVIL SERVICE
COMMISSION, MASSACHUSETTS
SUPERIOR COURT, AND
MASSACHUSETTS APPEALS COURT,

Defendants.

CIVIL ACTION 1:10-CV-10213-NMG
(Magistrate Judge Robert B. Collings)

STATE DEFENDANTS'
RESPONSE REQUIRED BY ELECTRONIC ORDER ENTERED 11/02/10

The *pro se* plaintiffs, Andrew Arvanitis and Edward Jacobs, unsuccessfully sought a job reclassification request from the defendant Massachusetts Department of Correction. After plaintiffs exhausted their administrative remedies and judicial review (a final judgment has been entered in state court), they filed this federal civil action against the Department of Correction, the Massachusetts Human Resources Division, the Massachusetts Civil Service Commission, the Massachusetts Superior Court, and the Massachusetts Appeals Court (collectively “State Defendants”) seeking to nullify the rulings of the defendants and an order remanding the matter to the Department of Correction for further relief.

Before the Court is the State Defendants’ motion to dismiss the complaint, which was filed on grounds of Eleventh Amendment immunity. While the motion was pending, apparently

recognizing the merits of that motion, plaintiffs amended their complaint. The amended complaint does not name the State Defendants as parties, but it seeks the same relief as was requested in the original complaint, at least in part. The parties named in the amended complaint are individual persons sued in their individual capacity.¹

Since the Amended Complaint does not name the parties who filed the motion to dismiss, *i.e.*, does not name the State Defendants, Magistrate Judge Robert B. Collings ordered the State Defendants to notify the Court whether they are willing to withdraw their motion to dismiss without prejudice. Electronic Order (Entered: 11/02/2010). The State Defendants respectfully decline to withdraw the motion.

The amended complaint should effectively terminate the State Defendants from the case because, as Magistrate Collings observed, the amended complaint no longer names the State Defendants as parties. The nature of the relief sought in the amended complaint, however, is largely the same relief sought in the original complaint. For instance, the amended complaint asks this Court to “vacate the rulings of the defendants,” referring to the rulings of the State Defendants. Further, the Court’s case caption continues to refer to the State Defendants. Therefore, withdrawal of the motion could create confusion.

In order to make it clear to plaintiffs and any concerned person that the State Defendants are dismissed as parties, and that no relief is available from them, the State Defendants respectfully request that their motion to dismiss be granted.

Respectfully submitted,

MASSACHUSETTS DEPARTMENT OF
CORRECTION, MASSACHUSETTS HUMAN
RESOURCES DIVISION, MASSACHUSETTS

¹ It appears from the docket that the newly named defendants have not been served. Once served, those individuals may contact the Office of Attorney General and request representation. At this time, the undersigned counsel is not representing them.

CIVIL SERVICE COMMISSION,
MASSACHUSETTS SUPERIOR COURT,
MASSACHUSETTS APPEALS COURT,

By their attorney,

MARTHA COAKLEY
ATTORNEY GENERAL

/s/ Maryanne Reynolds

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November 5, 2010

Certificate of Service

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF), and paper copies will be sent to those indicated as non-registered participants, on November 5, 2010.

/s/ Maryanne Reynolds

Maryanne Reynolds, BBO# 627127